# QUID NOVI

Journal des étudiant-e-s
en droit de l'université McGill

McGill Law's
Weekly Student Newspaper

*Volume 35, nº 10*
*14 janvier 2014 / January 14th 2014*

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***Volume 35, n°10***
***14 janvier 2014 | January 14th, 2014***

**QUID NOVI**

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http://quid.mcgill.ca/
http://www.quidnovi.ca



## *WHAT'S INSIDE?*
## *QUEL EST LE CONTENU?*



## *WANT TO TALK?*
## *TU VEUX T'EXPRIMER?*

**Envoyez vos commentaires ou articles avant jeudi 17h à l'adresse :** quid.law@mcgill.ca

**Toute contribution doit indiquer le nom de l'auteur, son année d'étude ainsi qu'un titre pour l'article. L'article ne sera publié qu'à la discrétion du comité de rédaction, qui basera sa décision sur la politique de rédaction.**

Contributions should preferably be submitted as a **.doc** attachment (and not, for instance, a ".docx.").

*Co-Editor in Chief*

JÉRÉMY BOULANGER-BONNELLY

# A FRESH NEW START

Si vous êtes comme moi, votre retour de vacances est marqué, comme toujours, par une certaine ambivalence entre la hâte de recommencer les cours et la déception de devoir dire adieu à la famille et au confort du temps des fêtes.

Le retour est aussi un moment propice pour réfléchir au chemin parcouru et à celui qu'il nous reste à tracer. Après tout, dans le tourbillon des lectures, des essais et des examens qui commencera véritablement cette semaine, quand aurons-nous le temps de prendre du recul pour penser à la finalité de ce que nous accomplissons ici, à la faculté ?

S'il y a bien une chose que j'ai réalisée dernièrement, c'est que nos études en droit ne servent pas à grand-chose si elles ne se matérialisent pas de façon concrète. Plusieurs d'entre nous sont venus à McGill précisément pour recevoir un enseignement plus "théorique" et critique, mais il me semble, après deux ans, qu'il y ait plus. Assez rapidement, il faut que les connaissances apprises trouvent application, et ce même avant notre entrée officielle dans la profession.

I therefore wish that in 2014, as Roméo Dallaire once put it, we "get our boots dirty" and implement the things we learn at the Faculty in a concrete way. The opportunities are plenty, be they the legal clinics, the moots, the clerkships or the High School Outreach Program. We just have to take advantage of them and make sure that we act from now on - and not only after our studies - as real actors of change, not only masters of theory in our ivory tower.

## 2014 AND THE QUID NOVI : A FRESH NEW START

At the Quid Novi, coming back from vacation also means making changes to our editorial policy, as we've promised last semester.

During the break, our editorial team has been reviewing the policy to find a way to make sure that the Overheards be better handled in the future.

As you can notice in the existing policy (at quidnovi.ca), no reference is made to the overheards. The absence of guidance as to their editorial oversight is, if anything, a good reflection of the lack of review that effectively happened. The main goals of the changes we now propose are, on one hand, to spell out the overheards review process that was already taking place informally to systematize it, and on the other hand, to buttress it by adding another layer of review that will, we hope, ensure the overheards' quality and appropriateness.

Alors que nous nous demandions quelle serait la meilleure solution pour éviter une situation semblable à celle que nous avons vécue la session passée, nous avons eu la chance de recevoir certaines suggestions, notamment celle du Professeur Leckey ("Who decides what's fit to print", 35:9 Quid Novi 4, November 26th, 2013).

L'idée d'abolir le caractère anonyme des overheards et de demander à ceux qui nous les envoient de mettre en copie conforme leur auteur est certainement très intéressante. Néanmoins, nous avons dû l'écarter en raison du fardeau administratif supplémentaire qu'elle imposerait aux éditeurs.

De plus, nous avons le sentiment qu'une telle mesure découragerait plusieurs personnes d'envoyer des overheards autrement appropriés, en raison de cette même complexité administrative, mais aussi du fait que certains overheards sont créés de toutes pièces, comme des blagues, et ne peuvent donc pas être reliés à une personne en particulier.

## THE CHANGES

You will find the proposed policy on pages 11-12 of this issue (pp. 13-14 en français). For purposes of comparison, the previous policy is available at quidnovi.ca

In brief, the changes will have the following effects :

- Clarify the current overheard review process;
- Submit the overheards to the same review process as regular submissions, except that all editors scheduled for a particular week will review all the overheards of the corresponding issue, instead of only one editor for regular submissions;
- Add the possibility of publishing a controversial submission or overheard along with a warning to alert the readers to the potentially offensive content;
- Add the possibility of consulting with student groups related to the topic of a potentially offensive submission or overheard before publication.

## THE NEXT STEPS

As per section 6 of the existing policy (now section 7), we are publishing these changes and will receive comments from members of the faculty until next Tuesday, January 21st. If changes are made to reflect the comments we receive, they will be published in a further issue. Afterwards, the changes will be officially submitted to all the volunteers of the Quid Novi and a vote will take place to determine if the changes are adopted or not. Once the changes are adopted, the new policy will be updated online at quidnovi.ca.

*Professor*

**ROBERT LECKEY**

# JUST CALL ME

RL (by e-mail, to a student club for which only an e-mail address is listed on the LSA Web page):
Hi,
I'm hoping that this is still an active club. Could someone from the club give me a shout? 398-4148.
Best wishes,
Robert Leckey

Student (by e-mail):
Hi Professor Leckey,
Yes, we are still active! What can we do for you?
Best wishes,
[Student]

RL (by e-mail):
Can you phone me? 398-4148

(Sometime later, there has been an exchange of voice messages. Late at night Student e-mails to explain why he or she hasn't phoned back earlier, indicating the time at which he or she would phone again.)

I hope to bridge a gap. The gap lies between those, like myself, who find the above exchange comical and those—possibly the majority of Quid Novi readers—who see nothing wrong with it. I included the exchange above because it is typical.

So here is the confession: Sometimes I like speaking to people by telephone. For a number of tasks, I find it warmer, simpler, more direct, and more effective than e-mail. In fact, there are many things I would rather do by phone: address a substantive issue arising from class, plan a conference panel, discuss whether or not I can write you a reference letter, and strategize about how to resolve a delicate administrative matter. For better or worse, on all of these issues I probably communicate more candidly by phone than by e-mail.

To be sure, the phone has its limitations. Like any medium, it can be used badly. Still, I have never experienced a situation where resort to e-mail could resolve tensions or dysfunction resulting from too much phone communication amongst colleagues or members of a group such as a committee or board. I have By using the phone, I accept that our dialogue will cease moving forward at the close of business hours. In fact, in my eyes one advantage of the phone is that it carries less expectation of an immediate reply.

I acknowledge that increasingly my preferences in this respect are countercultural. A graduate student, when passing to a colleague my request that the latter phone me, added the explanation "Professor Leckey is a phone person." Presumably "Please phone Professor Leckey" might have created bewilderment or prompted an e-mail. Significantly, and comfortingly for me, I am not unique. A securities-lawyer friend lamented to me last week that his junior staff would rather send dozens of e-mails than pick up the phone to hash something through. Indeed, the Wall Street Journal has featured a story entitled "Bosses Say 'Pick up the Phone': Managers Have a Message for Younger Employees: Get off Email and Talk on the Phone" (27 August 2013, <http://online.wsj.com/news/articles/SB10001424127887323407104579036714155366866>). Whether or not you and I interact during your time at the law faculty, then, sooner or later in your professional life you will need to interact with others who use their phone for more than telling the time and sending text messages.

Age-based generalizations are perilous and age is only a rough indicator of phone use. Not all young people eschew phone calls. And some folks my age or much older prefer e-mail. One or two of my colleagues, possibly ones who travel or work at home more than I do, have voicemail greetings that immediately invite the caller to send an e-mail. It's fair to say, though, that phone avoidance—including replying to a voice message by e-mail—is especially prominent amongst people born after 1980.

I don't aim to alter your default mode of communication. I hope simply to enhance your cultural competence, preparing you for dealing with me or someone else who unambiguously asserts a preference for the telephone:
• If asked to phone someone, do so; don't send an e-mail
• Unless otherwise specified, you don't need to set up an appointment by e-mail before telephoning someone
• If you reach your caller's voicemail, state your full name slowly and clearly and repeat your phone number
• Especially if the voice greeting asks for a detailed message, leave one; it is helpful for the person returning a call to know what it's about and to begin thinking about a response, however, experienced the converse.

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*Law II*

## Rx

# ON HUMILITY

Dear Law School Students,

Each day we bustle up the well-trodden hill, arms filled with books or umbrellas and minds filled with concerns—perhaps the readings we did or didn't do for the next class—busily trying to avoid the next icy tort case waiting to happen at every street corner.

And then it happens. Perhaps it is a piece of sky framed through a flagpole, or some particular piece of architecture curling around the edge of a railing or window ledge... Perhaps even a face.

We see—for the very first time—something we have seen hundreds of times before. We take notice—and it is so obvious as to seem strange that we've never done so before. This, I believe, is how life speaks to us. She whispers quietly but insistently, until we are ready to take notice. And when we do, we grow.

That, broadly, is the sum of my own New Year's reflexions. Now, narrowly, the story of these recent recursions:

After first year, I discovered that I was arrogant. I thought I could memorize the law and make myself, in short order, a living encyclopaedia. I knew that the law covers many areas of life, and that it is simply impossible to anticipate all the different ways humans can screw things up. I knew from studying Aristotle in ethics that we can only expect as much specificity as the subject matter will admit. But that didn't stop me from trying to hold my mind all the details of every case. And I ran ineluctably into frustration. Until then, I could not say until I walked by in first year what it really means to use the law as a tool for crafting a solution rather than a solution in itself.

So, over the summer I took the time to read and learn about studying law. There are many great books out there, including Llewellyn's Bramble Bush, Fischl & Paul's Getting to Maybe, and even Oliver Wendell Holmes' famous article The Path of Law—probably the single most widely used and misused work for epigraphs in the history of legal scholarship*—which I believe is most fruitfully read as an introduction to the law for law students.

And I began second year with the sense that I must finally be prepared to get things right, to pass through a semester at ease. But, after the first weekend of 2L, I discovered once more that I was arrogant. How little I knew about "getting law school right" when I was unable to finish more than a third of my readings for the first class in 8 hours.

Convinced that if some could do it well (and there are some) then there must be a method and that if there were a method, then all I needed to do was discover it, I swallowed my pride and put aside any aspirations for high marks, committing myself to learning how to get it right. Basically, I've had to rewire my brain and my life.

My self-revision has encompassed: time management skills down to the minute; way of reading down to the eyeball's tiny jerks; writing process down to the letter and period; sleeping habits; approach to learning; extra-curricular activities; way of thinking; understanding of my own personal history, strengths, and weaknesses; and even to some extent my spiritual beliefs.

I've become more compassionate because now I know just how hard it can be to raise the bar even when you have great opportunities and resources, and I've become more positive as a matter of necessity. Yet, even though I "know" that we can never be perfect, part of me can't help but feel that this time I'll finally "get it right". Perhaps this semester may disabuse me of such tiring expectations?

Finishing on a bright note, self-betterment is a hell of a challenge, but I must believe that if you're sincere about it, even if you don't make it nearly as far and as quickly as you thought you might, you'll never regret it—for too long!

-Aaron Fergie

P.S. I hope that in reading this you will see some reflection of your own journey thus far. If you've noticed these things already, perhaps you may take a moment to appreciate how far you've come; if you feel you are in much the same place, then may you find in this some sense of companionship and encouragement; and if you've yet to arrive, may you feel more at ease knowing that the struggle is normal, long-term, and altogether healthy.

*It never ceases to amaze me how astoundingly prescient so many legal writers seem to take Holmes to have been. Perhaps he was, but I often get the feeling that his work is simply used by some implicit custom as the be all and end all of hooks.

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*Rabbi*

**MICHAEL WHITMAN**

# CONSIDER CMPL 513 TALMUDIC LAW

You don't have to be Jewish to love Talmudic Law! Here is what students said about this course last year: "I think that learning about Jewish law is a great complement to the secular legal education we get at the McGill law faculty. I also believe that having a moot competition as our evaluation for the course is a brilliant idea."

The course begins with the history, methodology, and evolution of Jewish law. We will then cover the sources relating to the Case – a dispute between heirs over whether their father's estate. Then, students will be paired into teams of two, drafting briefs and participating in oral arguments in front of a panel of judges. The two winning teams will compete before distinguished judges in a final Talmudic Law Moot Competition event to which the community will be invited.

In this course you will learn about law, you will learn about life – and you will enjoy it! Please sign up for CMPL 513 and tell your friends.

Michael Whitman, RABBI
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www.facebook.com/theadath
The ADATH
Phone: 514.482.4252

## Move from the classroom to the courtroom.

If you've set your sights on a career in litigation, you want to apply all that you've learned so far where it really counts – in court. At Lenczner Slaght, you'll spend more time preparing and presenting cases, guided by highly respected lawyers who can help you develop and polish your advocacy skills. As Canada's leading litigation practice, we don't just offer you more firsthand courtroom experience – we insist on it.

Lenczner Slaght

*Law III, Linguistic Rights McGill*

**DOMINIC DI FRUSCIO**

# ACCÈS À LA JUSTICE EN FRANÇAIS ET EN ANGLAIS

On November 19, 2013, Linguistic Rights McGill had the pleasure of hosting Mr. Graham Fraser, Commissioner of Official Languages of Canada, to discuss the issue of access to justice in English and French. At this event, Mr. Fraser outlined his concern that many Canadians are not able to access the court system in their official language of choice.

Tout d'abord, M. Fraser a présenté les grandes lignes de son rapport récent intitulé « L'accès à la justice dans les deux langues officielles : Améliorer la capacité bilingue de la magistrature des cours supérieures ». Selon ce rapport, plusieurs intervenants sont d'avis que les cours supérieures provinciales « n'offr[ent] pas des services bilingues complets » et que les recours intentés dans une langue officielle minoritaire au Canada « ne sont pas entend[us] dans des délais comparables » que ceux intentés dans la langue officielle majoritaire dans une juridiction (à la p 17). M. Fraser offre plusieurs recommandations pour remédier à cette situation, notamment une meilleure coopération avec le ministre fédéral de la Justice et ses homologues provinciaux et territoriaux pour améliorer les services bilingues des cours.

Mr. Fraser also discussed the recent decision Conseil scolaire francophone de la Colombie Britannique v. British Columbia (2013 SCC 42), in which the Supreme Court of Canada ruled that documents may only be submitted to the Supreme Court of British Columbia in English. In this decision, a majority of the Supreme Court of Canada held that a statute enacted in England in 1731 prohibiting the use of languages other than English in the courts has force in British Columbia today. Alternatively, the minority in this case held that notwithstanding the 1731 statute, a superior court nevertheless has the inherent jurisdiction to admit documents in French "where [it] will ensure the administration of justice according to law in a regular, orderly and effective manner" (at para 113). Mr. Fraser argued that there is a certain irony behind this decision, in that the 1731 statute was designed to protect citizens from the state by ensuring that their language of choice would be used in court. In Mr. Fraser's view, it is unfortunate that today, almost three hundred years later, this same statute is being used inversely to protect the state and is hindering access to justice to those who wish to access the courts in a recognized official language in Canada.

Droits linguistiques McGill aimerait remercier tous ceux et celles qui nous ont aidés à organiser cet événement. Nous aimerions aussi remercier tous ceux et celles qui ont assisté à notre réunion annuelle et rencontre sociale en décembre. Nous organisons présentement d'autres événements pour les mois qui viennent. Plus de détails à venir!

Photo Credit : Iliad Nazhad

Photo L-R : Andréa Suurland, Lawrence David, Pierre Lermusieaux, Graham Fraser, Dominic DiFruscio

MCGILL LAW JOURNAL

# THE MCGILL LAW JOURNAL IS NOW RECRUITING! POSTULEZ MAINTENANT!

**Don't know whether to apply? Here's what current members have to say about their experience on the Journal!**

"If you consider yourself a hardcore gamer, the Journal might just be for you.

SCRABBLE® (my all-time favorite game) nails it: 'Every word counts!'" – Talia Joundi, Junior English Editor

"Journal work is rewarding because every week, you get to take a project from start to finish. It gives me a sense of tangible accomplishment." - Claire Gunner, Junior English Editor

"The Managing Editor's position is one of the best kept secrets of the Journal. It gives you the opportunity to sit on the Board of Directors of a corporation, negotiate contracts, and manage relationships with contractors and alumni. In addition to project management, the Managing Editor can elect to assist with editorial tasks. Being a manager at the Journal is a terrific stepping stone to a corporate law career." – Nancy Zagbayou, Managing Editor

"Jusqu'à présent, mon expérience à la Revue de droit de McGill a été très formatrice. En plus d'avoir eu un accès privilégié à des articles bien rédigés et bien documentés, j'ai grandement amélioré mes propres habiletés de recherche." Gabrielle Trahan, Junior French Editor

"Much of what lawyers do involves research and writing (which involves editing). Being on the Journal has given me a head start on my career, by allowing me to acquire a high degree of fluency with various legal materials (such as the McGill Guide and legal databases) and build on my editing skills. Both of these assets will contribute to my future career in law and are transposable to a multitude of careers, meaning this experience has opened doors that might be closed if I hadn't joined." Nicholas Torti, Junior English Editor

"This is a nerd's paradise! I sleep with the Cite Guide under my pillow." – Marion Sandilands, Senior English Editor

"Working for the McGill Law Journal Management Board is having the opportunity to connect with great colleagues and organize events to bring people together." Léonie Brais Laporte, Junior Manager

**McGill Law Journal: Info session recap**

For those of you who are interested in applying for a position on the McGill Law Journal but didn't make it to the information session on November 6, below is some key information to orient you in your application process.

***À propos de la Revue***

Fondée en 1952, la Revue de droit de McGill est l'une des revues de droit les plus respectées au Canada. La Revue publie quatre numéros par volume et accepte des articles dans les deux langues officielles.

The MLJ organizes and hosts events at the Faculty every year, ranging from the Annual Lecture to the upcoming MLJ coffeehouse on March 13. We will also be hosting a wine and cheese on February 13 to give you the opportunity to meet the current members of the Journal.

***What positions are available?***

The Journal recruits editors and managers every year to its Associate Board. The number of editors and managers hired depends on the needs of the Journal and varies year-to-year. Last year, the Journal welcomed 3 managers, 3 French editors, and 9 English editors.

The managers assist with administrative tasks and are responsible for the Journal's finances. Editors are responsible for ensuring that accepted articles conform to the Journal's publication standards.

***How is the MLJ structured?***

Each year the Editorial Board elects the Board of Directors, comprised of an Editor-in-Chief, a Managing Editor, an Executive French Editor, an Executive English Editor, and an Executive Coordinating Editor. All Associate Board members are eligible to run for executive positions and a vote is held at Annual General Meeting in February. Associate Journal members who are not elected to an executive position become senior editors or managers in their second year on the Journal.

***What is the time commitment?***

Journal work is assigned weekly by the executive board and is expected to take 8–10 hours to complete. Journal members also work on various committees throughout the year. This year, the Journal counts five committees: French Conference, Digital Media, Recruitment, Podcast, and Citations.

Les rédacteurs du comité adjoint reçoivent 3 crédits chaque année scolaire, et les gestionnaires du comité adjoint reçoivent 2 crédits. Les membres de l'exécutif reçoivent 4, 5 ou 6 crédits, dé-

*Continued from previous page*

pendemment de leur poste.

Être membre de la Revue implique un engagement de deux ans et les membres ne peuvent pas partir en échange pendant leur mandat.

***Comment soumettre ma candidature?***

Les dossiers d'application pour les postes en rédaction et en administration sont maintenant disponibles! Vous pouvez télécharger l'application directement sur notre site web : lawjournal.mcgill.ca.

Editorial applications require you to edit part of its text and a set of footnotes (using the track changes function in Microsoft Word). Editorial applicants are also asked to write a brief evaluation recommending the article for publication or rejecting it.

Managerial applications ask you to respond to questions regarding your marketing, finance, and leadership experience. You will also have to critique an article published by the Journal in order to demonstrate your writing abilities.

Applicants will have 10 days to complete their application from the time they download the package. The deadline for submitting applications will be Monday March 10, 2014. The interviews and the final selection will take place in March.

***Why join the McGill Law Journal?***

Working for the MLJ is an opportunity to expand your legal education beyond the classroom. Journal members interact with highly accomplished legal scholars from all over the world both by reading and editing their written submissions and by meeting them in person at Journal events. Being on the MLJ will improve your eye for detail and your ability to manage your time.

If you have any further questions, please feel free to send us an email at mcgilllawjournalmanagement@gmail.com, or come to the Journal office in 306 NCDH. We look forward to meeting you!

# Being on the Law Journal means...

# helping to save the world from embarrassing spelling mistakes.


The *McGill Law Journal* is recruiting! Learn more at: lawjournal.mcgill.ca

THE EDITORS-IN-CHIEF

# EDITORIAL POLICY

Proposed changes are in bold
The current policy is available at quidnovi.ca

Since the Quid belongs to all Law students, it is essential to adopt a transparent editorial policy that will guarantee both freedom of expression and the protection of individual interests.

You will find below some principles that we hope will guide you when you write your articles. While they were developed after consultation with students and members of the LSA executive, they may not be perfect: we welcome your comments at quid.law@mcgill.ca.

Wherever possible, the Quid publishes everything submitted. However, to encourage a climate where each student will feel comfortable sharing his/her opinions, in rare circumstances, articles may be edited, and in extreme cases refused, at the discretion of the editors-in-chief.

While all submissions are presumptively publishable, potentially criminal speech (i.e. hate speech) and-or libelous speech are not presumptively publishable. In such cases the author must make a strong case that the information is accurate, that journalistic standards and ethics were followed; discretion to publish such articles lies solely with the Editors-in-Chief.

## QUID NOVI POLICIES AND OPERATING GUIDELINES

The Quid belongs to students enrolled in the Faculty of Law at McGill University. It is essential that it maintains transparent policies and guidelines that take into consideration values such as the freedom of expression as well as interests such as those of students and faculty. The policies and operating guidelines are set forth below. Questions and comments may be directed to: quid.law@mcgill.ca. This policy is updated at the sole discretion of the Editors-in-Chiefs provided notice of update has been published in the Quid.

This version of the policy is enacted as of **2014**.

This document has five sections:

1) General Guidelines
2) Submission and Revocation Policy
3) Anonymous Submission Policy
4) Editing Guidelines
5) Content Review Policy
**6) Overheards Review Policy**
**7)** Notice and Amendment Process

### 1) GENERAL GUIDELINES

Every item appearing in the Quid Novi is an opinion piece that reflects only the views of the person (s) submitting the item. Neither the Quid Novi, the LSA, nor the Faculty of Law endorse any of the material or views contained therein. Given the nature of the publication and its limited resources, the Quid will not undertake to evaluate the factual accuracy of submissions. Submissions are presumptively publishable unless they do not conform to the guidelines contained herein.

### 2) SUBMISSION AND REVOCATION POLICY

The Quid is a submission-driven publication. The deadline for submission shall appear in every issue. Articles submitted must include the author's name and year of study. If the author is writing in a particular capacity (i.e. 'LSA President'; 'Head of Student Club') this is to be indicated by the author.

No material submitted after the deadline shall be published without the express consent of the Editors-in-Chief. Late submissions will be slated for publication in the subsequent edition.

Articles submitted for publication may be revoked by the author. The Quid will honour all such requests provided they are made at least two days prior to publication. The Quid will do its best to honour a late revocation request but will not stop the printing of an issue that has already gone to press.

### 3) ANONYMOUS SUBMISSION POLICY

The Quid will publish anonymous articles provided they conform to the Quid policy and operating guidelines. Anonymous articles present a challenge for content review for they do not allow the Editors-in-Chief to consult with the author. As such, if an anonymous article is rejected for publication, notification of rejection must be published in the Quid.

### 4) EDITING GUIDELINES

Every item submitted to the Quid shall be reviewed. The Quid reserves the right to make grammatical edits to improve the readability or suitability for publication of an article. Editors may also correct spelling mistakes. If a submission requires significant editing - in the view of the first person reviewing the article - this shall be indi-

cated to the Editors-in-Chief. The Editors may refuse to publish the article for lack of suitability or may conduct significant edits and publish the submission. Minor edits need not be communicated to the author prior to publication.

5) CONTENT REVIEW POLICY

All submissions made to the Quid shall be reviewed for content. There is a four-step review process.

1) Review by Editor

The Editor assigned to review the article (or an Editor-in-Chief) individually reviews the submission for content they believe to be questionable. Questionable content is content that, in the appreciation of that respective Editor, is either potentially offensive or potentially not suitable for publication. The following factors will be considered when assessing potential offensiveness: the overall tone of the submission, the specific word(s) used, the context in which they are used, coupled with an individual appreciation of the potential reaction to said material by the student body, professors, alumni, and the Montreal legal community. If, on balance, any individual Editor or an Editor-in-Chief believes there is questionable content, this is communicated to the Editors-in-Chief.

Items that are potentially not suitable for publication include, but are not limited to: submissions that are too long or too short; submissions that have the potential to create a hostile environment for faculty or students; and submissions that are defamatory in nature.

2) Discussion

At the second stage of review, the Editors-in-Chief and Editor who did the initial review discuss their specific findings with one another in relation to the submission. If there is a finding of questionable content that is agreed to by a majority (i.e. at least two-out-of-three between the reviewing editor and the Editors-in Chief), the article goes for consultation. If there is no agreed finding of questionable content, the article is published as is or with edits **or a warning**, at the discretion of the Editors-in-Chief.

3) Consultation

At the Consultation stage, the Editors-in-Chief must advise the author that there is a content concern. The Editors-in-Chief may consult others about the submission, provided there is no information given identifying the author(s). The Editors-in-Chief may consult with any individuals mentioned in the article, fellow students, **student groups**, faculty members, and/or alumni, at the discretion of the Editors-in-Chief. Consultation is not a question of how-many-for vs. how-many-against; rather, given the nature and role of the Quid, consultation is premised on whether the specific content is suitable for publication. The author may be consulted numerous times if the Editors-in-Chief feel this is necessary.

4) Decision

The Editors-in-Chief will discuss the results of their consultations and will render a decision to: [a] accept the submission as is; [b] accept the submission with minor edit(s) to be completed by the Editors-in-Chief; **[c] accept the submission with or without minor edit(s) and publish a warning along the submission; [d]** return the submission to the author for modification with suggestions provided at the discretion of the Editors-in-Chief, or, alternatively, [e] reject publication without modification suggestions. The decision of the Editors-in-Chief is final and binding. The Editors-in-Chief, at their discretion, may publish a notice of rejection in the Quid with their reasons, indicating, at their discretion, the name(s) of the author(s). Alternatively, the author(s) may request that such a notice appear, in which case the notice will bear the format: AUTHOR -- YEAR -- TITLE OF SUBMISSION was submitted for publication but will not be printed in accordance with the Quid Policy and Operational Guidelines.

**6) OVERHEARDS REVIEW POLICY**

**Overheards at the faculty must be sent to quid.law@mcgill.ca before 5 PM each Thursday to be published in the following edition.**

**When an overheard mentions a professor, the Editors-in-Chief shall verify before publication if the professor consents to its publication as is, to its publication with her name redacted, or does not consent to its publication at all. The Editors-in-Chief shall respect her decision.**

**Overheards shall identify students only by their year of study (1L, 2L, 3L or 4L).**

**The Editors-in-Chief shall be responsible to compile in a single document all the overheards received by the applicable deadline. This document is thereafter to be treated as a regular submission, and shall undergo the content review policy described in section 5, supra, the only difference being that overheards shall be sent to all the editors on schedule for that week, not only one of them.**

**7)** NOTICE AND AMENDMENT PROCESS

The Editors-in-Chief shall publish these guidelines in the Quid in the first issue of every semester. Changes may only be proposed by Quid staff. If there is a proposed change, it will be indicated in the next issue of the Quid with the opportunity for students to make submissions for a period of at least one week. Changes must be approved by a majority of active Quid staff. The Editors-in-Chief must publish notice of any change or change attempt in the Quid.

# POLITIQUE ÉDITORIALE

(Les changements proposés sont en gras et la politique actuelle est en ligne à quidnovi.ca)

**Puisque le Quid Novi appartient à tous les étudiants en droit, il est essentiel d'adopter des politiques éditoriales transparentes qui garantiront à la fois la liberté d'expression et la protection des intérêts individuels.**

**Vous trouverez ci-bas certains principes qui, nous l'espérons, sauront vous guider lorsque vous écrirez vos articles. Bien qu'ils aient été développés après consultation avec les étudiants et les membres de l'exécutif de l'AÉD, ils restent probablement imparfaits : vos commentaires sont les bienvenus à quid.law@mcgill.ca**

Lorsque c'est possible, le Quid publie toutes les contributions qu'il reçoit. Cependant, dans le but de favoriser un climat où chaque étudiant sera confortable d'exprimer ses opinions, les **éditeurs-en-chef** se réservent le droit de modifier des articles ou même, dans des circonstances rares, de les refuser. Ce pouvoir sera exercé à la discrétion des **éditeurs-en-chef**.

Nous présumons que toutes les contributions sont dignes de publication. Néanmoins, des propos potentiellement criminels (i.e. le discours de haine) et des propos diffamatoires ne bénéficient pas de cette présomption. Dans de tels cas, l'auteur doit démontrer de façon probante que les informations contenues dans sa contribution sont véridiques et que les principes de la déontologie journalistique ont été suivis. La décision de publier ces articles relève uniquement des **éditeurs-en-chef**.

POLITIQUES ET PRINCIPES D'OPÉRATION DU QUID NOVI

Le Quid appartient aux étudiants de la Faculté de droit de l'Université McGill. Il est donc essentiel qu'il suive des politiques et principes transparents, qui prennent en considération la valeur de la liberté d'expression ainsi que les intérêts des étudiants et des professeurs. Les politiques et les principes d'opération sont exposés ci-bas. Les questions et commentaires s'y rapportant peuvent être adressés à : quid.law@mcgill.ca. Cette politique est mise à jour à la discrétion des **éditeurs-en-chef**, à la seule condition qu'un préavis de la mise à jour soit publiée dans le Quid.

Cette version de la politique s'applique depuis **2014**. Sa traduction française date de **2014**.

Ce document contient cinq sections :

**1)** Principes généraux
**2)** Politique de contribution et de révocation
**3)** Politique de contribution anonyme
**4)** Politique de correction
**5)** Politique de révision du contenu
**6) Politique de révision des overheards**
**7)** Procédures de préavis et d'amendement

1) PRINCIPES GÉNÉRAUX

Chaque item apparaissant dans le Quid Novi est un article d'opinion qui reflète uniquement le point de vue de la personne ou des personnes qui ont écrit l'item. Ni le Quid Novi, ni l'AÉD, ni la Faculté de droit n'endosse les opinions contenues dans les contributions publiées. Étant donné la nature de cette publication et ses ressources limitées, le Quid ne s'engagera pas dans la vérification de la véracité factuelle des contributions.

Les contributions sont présumées dignes de publication, à moins de ne pas se conformer aux principes énumérés ici.

2) POLITIQUE DE CONTRIBUTION ET DE RÉVOCATION

Le Quid est une publication qui survit grâce aux contributions. La date limite pour les contributions apparaîtra dans chaque numéro. Les articles soumis doivent contenir le nom de l'auteur ainsi que son année d'étude. Si l'auteur écrit dans un rôle particulier (i.e. "Président de l'AÉD"; "Président d'un club étudiant"), ceci doit également être indiqué.

Aucun item soumis après la date limite ne sera publié sans le consentement explicite des **éditeurs-en-chef**. Les contributions tardives seront conservées et publiées dans le numéro subséquent.

Les articles soumis pour publication peuvent être révoqués par l'auteur, du moment que cette requête soit faite au moins deux jours avant la publication du numéro en question. Le Quid fera de son mieux pour faire suite à une requête tardive, mais il n'arrêtera pas la publication d'un numéro qui est déjà en impression.

3) POLITIQUE DE CONTRIBUTION ANONYME

Le Quid publiera des articles anonymes, à la condition que ceux-ci se conforment à ses politiques et principes d'opération. Les articles anonymes présentent un défi particulier pour la révision du contenu, car ils ne permettent pas aux **éditeurs-en-chef** de consulter avec l'auteur. Ainsi, si un article anonyme est refusé, un avis de refus doit être publié dans le Quid.

4) POLITIQUE DE CORRECTION

Chaque item soumis au Quid sera révisé. Le Quid se réserve le droit de faire des modifications grammaticales afin d'améliorer la présentation et la lisibilité d'un article. Les **éditeurs** peuvent également corriger les fautes d'orthographe. Si une contribution nécessite des modifications importantes, dans l'avis de la personne qui le révise, ceci sera indiqué aux **éditeurs-en-chef**. Ceux-ci peuvent refuser de publier l'article ou bien effectuer des modifications importantes pour ensuite le publier. Les modifications mineures ne sont pas nécessairement

communiquées à l'auteur avant la publication.

5) POLITIQUE DE RÉVISION DU CONTENU

Toutes les contributions au Quid seront révisées au niveau du contenu. Il existe un processus de révision comportant quatre étapes.

1) Révision par **l'éditeur**

**L'éditeur ou éditeur-en-chef** chargé de la révision d'un article accomplit cette tâche en vérifiant s'il contient du contenu contestable. Le contenu contestable dénote du contenu que **l'éditeur** en question juge comme potentiellement offensant ou autrement inadéquat pour la publication. Les facteurs suivants seront considérés lors de l'évaluation du potentiel offensant: le ton général de la contribution, les mots précis utilisés dans leur contexte précis, ainsi qu'une appréciation de la réaction potentielle du corps étudiant, des professeurs, des anciens étudiants et de la communauté juridique montréalaise. Si **l'éditeur** individuel estime que le contenu est contestable, il communique ceci aux **éditeurs-en-chef**.

Les items qui sont potentiellement inadéquats pour la publication incluent (sans s'y limiter): les contributions qui sont trop longues ou trop courtes; les contributions qui possèdent le potentiel de créer un environnement hostile pour les professeurs ou les étudiants; et les contributions à nature diffamatoire.

2) Discussion

À la deuxième étape de la révision, les **éditeurs-en-chef** et **l'éditeur** qui a accompli la révision initiale discutent de leurs conclusions spécifiques vis-à-vis l'article. S'il existe un consensus de contenu contestable parmi une majorité (moins deux sur trois parmi **l'éditeur** et les **éditeurs-en-chef**), l'article procède à l'étape de la consultation. S'il n'existe pas un tel consensus, l'article est publié comme tel ou avec des modifications **ou un avertissement aux lecteurs**, à la discrétion des **éditeurs-en-chef.**

3) Consultation

Au stade de la consultation, les **éditeurs-en-chef** doivent aviser l'auteur qu'il existe des préoccupations au niveau du contenu. Les **éditeurs-en-chef** peuvent consulter d'autres individus au sujet de la contribution, à la condition de ne fournir aucune information permettant d'identifier l'auteur. Les **éditeurs** peuvent consulter avec des individus mentionnés dans l'article, d'autres étudiants, **des groupes étudiants**, des professeurs ou des anciens étudiants, à leur propre discrétion. La consultation n'est pas un concours de "combien-sont-pour vs. combien-sont-contre". Compte tenu de la nature et du rôle du Quid, la consultation doit déterminer si le contenu spécifique est digne de publication. L'auteur peut être consulté à de nombreuses reprises si les **éditeurs-en-chef** jugent que ceci est nécessaire.

4) Décision

Les **éditeurs-en-chef** discuteront des résultats de leurs consultations et rendront une décision de: a) accepter la contribution comme telle; b) accepter la contribution avec des modifications mineures portées par eux-mêmes; **c) accepter la contribution avec ou sans modifications mineures et publier un avertissement aux lecteurs avec la contribution; d**) retourner la contribution à l'auteur pour modification avec des suggestions portées à la discrétion des **éditeurs-en-chef**; **e**) rejeter la contribution sans offrir des suggestions. La décision des **éditeurs-en-chef** est finale et incontestable.

Les **éditeurs-en-chef**, à leur discrétion, peuvent publier un avis de refus dans le Quid avec les raisons du refus ainsi que le nom de l'auteur. L'auteur peut également demander qu'un tel avis apparaisse; dans un tel cas, l'avis portera le format suivant: « AUTEUR --- ANNÉE --- TITRE a été soumis pour publication mais ne sera pas imprimé, en accord avec les politiques et principes d'opération du Quid ».

**6) POLITIQUE DE RÉVISION DES OVERHEARDS**

**Les overheards doivent être envoyés à quid.law@mcgill.ca avant 17h00 le jeudi pour être publiés dans le numéro subséquent.**

**Lorsqu'un overheard mentionne un professeur, les éditeurs-en-chef doivent vérifier auprès de lui ou d'elle s'il y a consentement pour publier l'overheard tel quel, pour le publier sans le nom du professeur, ou si le professeur ne consent pas à la publication. Les éditeurs-en-chef sont tenus de respecter cette décision.**

**Les overheards doivent identifier les étudiants uniquement par leur année d'étude (1L, 2L, 3L ou 4L).**

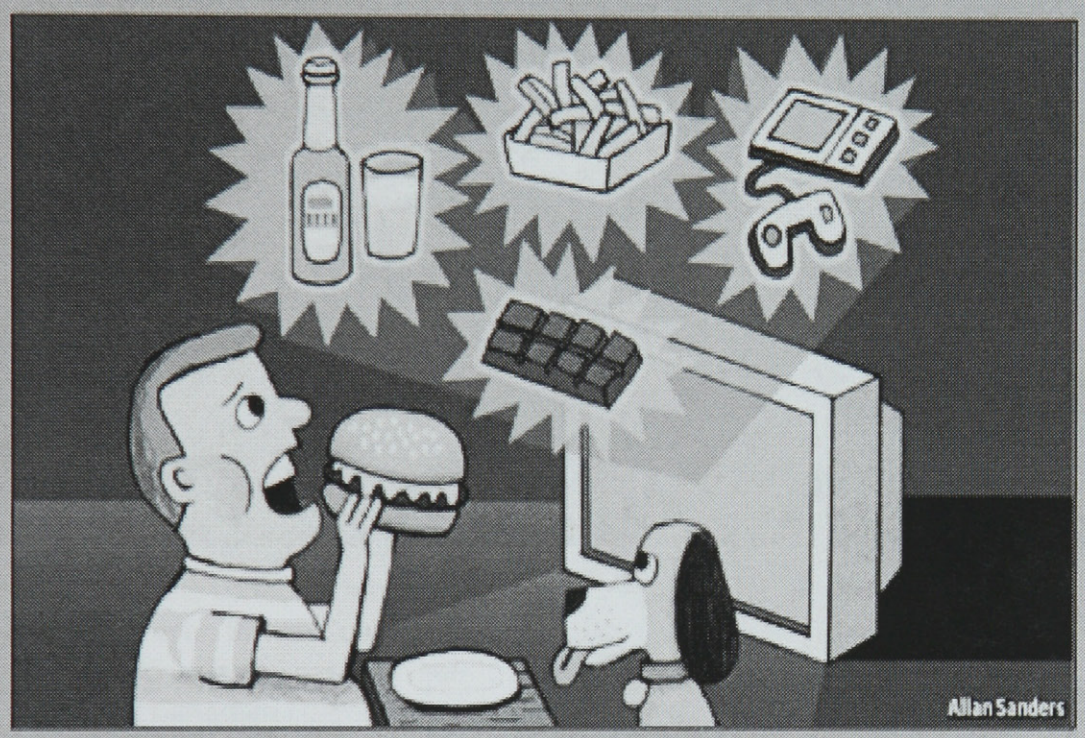
**Les éditeurs-en-chef sont responsables de compiler dans un seul document tous les overheards reçus avant l'échéance applicable. Ce document doit par la suite être traité comme une contribution régulière et doit être soumis à la politique de révision du contenu décrite à la section 5, supra, la seule différence étant que les overheards seront envoyés à tous les éditeurs de la semaine et non à un seul.**

**7)** POLITIQUE DE PRÉAVIS ET D'AMENDEMENT

Les **éditeurs-en-chef** publieront ces principes dans le premier numéro du Quid à chaque semestre. Des amendements peuvent être proposés uniquement par le personnel du Quid. Si un amendement est proposé, il sera indiqué dans le numéro subséquent du Quid afin d'offrir une opportunité d'au moins une semaine aux étudiants de rédiger des contributions. Les amendements doivent être approuvés par une majorité du personnel actif du Quid. Les **éditeurs-en-chef** doivent publier un avis de tout changement ou de toute tentative de changement dans le Quid.

# Banning food ads aimed at children:
## Is Quebec's regulatory model still cutting-edge?

## Research Group on Health and Law Annual Interdisciplinary Panel




**Mercredi le 22 janvier**
**12h45 - 14h15**
**NCDH Rm 312**
**Faculté de droit**
**Université McGill**

**A healthy, tasty lunch will be served!**
**Space is limited. Please RSVP to rghl.law@mcgill.ca**
**Pending Barreau credit approval**

**This interdisciplinary panel will explore legal, ethical, social science and policy dimensions of restrictions on food advertising to children, with a focus on the role of evidence in crafting public health policy and regulating industry practice.**

**Panelists:**

**Dr. Kristin Voigt:** Assistant Professor at the Institute for Health and Social Policy and Department of Philosophy at McGill University. Professor Voigt's research focuses on egalitarian theories of justice and the links between philosophy and social policy.

**Dr. Monique Potvin Kent:** Replacement and Adjunct Professor at the University of Ottawa Interdisciplinary School of Health Sciences. Prof. Kent's research has examined children's exposure to food marketing in Canada and the nutritional quality of this marketing.

**Bill Jeffery:** National Coordinator of the Centre for Science in the Public Interest (CSPI), a non-profit health advocacy organization specializing in nutrition and food safety.

McGILL RESEARCH GROUP ON HEALTH AND LAW


# Arctic Law Colloquium:
# Offshore Resources & International Governance

**January 25, 2014**

New Chancellor Day Hall
McGill Faculty of Law
Montreal, QC

9:30 a.m to 2:00 p.m.

**Panel on International Governance**
Bernard Funston (Northern Canada Consulting)
Prof. Suzanne Lalonde (Université de Montréal)
Joël Plouffe (OPSA / CIRRICQ)

Moderator: Prof. Richard Janda (McGill University)

**Panel on Offshore resources**
Prof. Michael Byers (University of British Columbia)
Chris Debicki (Oceans North Canada)
Me Richard Desgagnés (Norton Rose Fulbright)
Me Peter Pamel (BLG)

Moderator: Me Katia Opalka (Lavery)

**Click here to register,**
**visit http://bit.ly/19tuG2i**
**or use this QR code**

**SPONSORS:**

*Hosted by the* ***McGill International Journal of Sustainable Development Law & Policy [JSDLP]***
*and* ***Environmental Law McGill [ELM]***

*Professor*

**STEPHEN A. SCOTT**

# ALUMNI NEWS

I have very special pleasure in bringing to our Faculty and University community the news that our charismatic alum John Hlibchuk (B.C.L./LL.B. 2000) is newly promoted to the rank of Lieutenant-Colonel in the Canadian Forces and will this coming Saturday, November 1st, 2013, become Regimental Commanding Officer of the Royal Canadian Hussars Regiment at a change-of-command ceremony at the Hussars' Armoury on ch. de la Côte-des-Neiges.

The Regiment has released this profile:

Lieutenant-Colonel Hlibchuk was born and raised in Montreal, Quebec, then educated in Montreal, Quebec; London, Ontario; and Vancouver, British Columbia. For over 25 years he has both served in the Canadian Forces Primary Reserve while at the same time actively involving himself in community volunteer work.

In 1987 he joined the Canadian Grenadier Guards as a Guardsman during the summer break from CEGEP. After the completion of CEGEP, while studying at Ivey School of Business in London Ontario, then Guardsman Hlibchuk enrolled in the 1st Hussars as an Officer Cadet. He was eventually promoted to Lieutenant and acted as a tank troop leader.

Following graduation from the Ivey School of Business in 1991, then Lieutenant Hlibchuk accepted a job with Procter & Gamble in Vancouver and transferred to the British Columbia Regiment where he acted as a Reconnaissance Troop Leader and Battle Captain. In March 1993, after promotion to Captain, he took up the study of law at McGill University and at the same time served with the Royal Canadian Hussars as Operations Officer, Gunnery Officer, and Squadron Commander. LCol Hlibchuk also represented Canada as part of the CIOR military pentathlon team competing in Eupen, Belgium in 1994 and Rome, Italy in 1995.

LCol Hlibchuk graduated from McGill Law School in June 2000 and has since served as an advisor to the Commanding Officer of Pacific Region RCMP; Senior Policy Advisor to the President of the Treasury Board; and Senior Policy Advisor to the Minister of Justice. He also acted as a senior investigator with the United Nations in Dili, East Timor, investigating the attempted assassination of the President of East Timor. LCol Hlibchuk is fluent in French, Spanish and Portuguese.

In addition to serving his community through the army reserve, LCol Hlibchuk has also been actively involved with volunteer work. Examples include the Montreal Children's Hospital Infant Intensive Care Unit; the Montreal Association for the Blind, the London Boys' and Girls' Club and the NDG Food Depot. Most recently, in both 2009 and 2010 LCol Hlibchuk coordinated the NDG Food Depot's operation for the collection of food and money in the city of Westmount during the annual food drive.

In September 2009 he was promoted to Major and appointed Deputy Commanding Officer of the Royal Canadian Hussars. LCol Hlibchuk was promoted to his current rank [in] November 2013, and is currently a lawyer with the Federal Government and teaches law at John Abbott College. He is also currently serving on the board of directors of the NDG Food Depot and was appointed Treasurer in May 2011.

I invite all to join me in offering Lt.-Col. Hlibchuk and his family our warmest congratulations and our best wishes. Perhaps in the context of family I might be permitted to add that John's brother William is also a McGill alum (B.A., and, in the Law Faculty B.C.L. 2001) and practices law as a member of the Bar of Quebec.


*Librarian*

# LAW LIBRARY NEWS

- New Look for the Law Subject Guide

During the holiday break, we migrated our subject guide to a new tabbed layout http://www.mcgill.ca/library/find/subjects/law. We hope that this design that uses tabs instead of subheadings to divide the subsections will be more conducive to the (I would delete THE) resource discovery. It allows to avoid vertical scrolling and provides more visibility for the resources that were previously "buried" at the bottom (NOt bottoms) of the pages.

- AZIMUT and IE 10

Si vous avez des difficultés à utiliser AZIMUT on IE 10, jetez un coup d'œil sur ce poste « Internet Explorer 10 et Windows 7: maux de tête en perspective » sur le blogue de SOQUIJ pour une solution du problème: http://blogue.soquij.qc.ca/2013/04/30/internet-explorer-10-et-windows-7-maux-de-tete-en-perspective/?utm_campaign=web20&utm_medium=lien-txt&utm_source=choixdeservices

- Parliament's Historical Debates are now available online

The Library of Parliament, in collaboration with Canadiana.org, is launching its Historical Debates of the Parliament of Canada digital portal: http://parl.canadiana.ca/?usrlang=en. The portal provides free public access to digital versions of the historical debates of the Parliament of Canada in both official languages. It includes all published debates of both the Senate and the House of Commons from Parliament 1, Session 1 until coverage provided on the Parliament of Canada page.

- Cambridge University Press (University Publishing Online)

The McGill Library has recently purchased the complete e-book collections of the Cambridge University Press (University Publishing Online) for both 2013 and 2014. Currently, there are 909 e-books available in the collection. To access the Cambridge University Press collection, go to (added TO) McGill Library / Subject guides / Law / Legal Treatises Collection. To access the Law collection, click on the Social Sciences link on the lift-hand side.

- Law Library blog & Facebook

Do not forget to check Nahum Gelber Law Library`s blog http://blogs.library.mcgill.ca/lawlibrary/ and Facebook page http://www.facebook.com/NahumGelberLaw.Library where you can find more of the Law Library news

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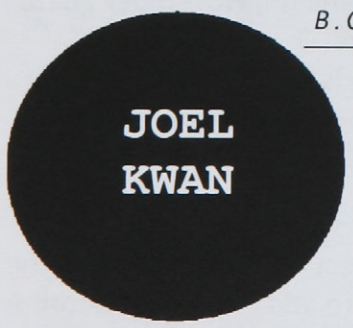


*B.C.L. / LL.B. - MBA 2013*

# COMPARING NAFTA AND CETA

On October 18, 2013 the European Union and Canada reached an agreement in principle concerning the Comprehensive Economic and Trade Agreement (CETA). The Canadian government has yet to release the text of the agreement, but has released a technical summary upon which this commentary is based.

CETA is seen as the most ambitious and far-reaching agreement since the North American Free Trade Agreement (NAFTA) between Canada, the US, and Mexico. NAFTA has been implemented for nearly 20 years so there is much written about its after-effects.

Here is how NAFTA matches up to CETA.

Trade in Goods

A central component of a free trade area (FTA) is the reduction of trade barriers between countries. Trade barriers can be in the form of quotas, tariffs, or non-trade barriers (whicih could be technical standards used as barriers, for example).

While NAFTA planned for a phasing out of most barriers in a 15 year time frame, CETA sets this phasing out period at seven years for the most sensitive goods. To have an indication of the speed of the phasing out, over 95% of all goods are to face no tariffs upon entry into force of CETA. With NAFTA, the process was much slower and haphazard. For example, only 40% of goods faced no tariffs between Mexico and the US when NAFTA came into force. Further, piecemeal deals between the three countries had to be reached in order to further lessen trade barriers. CETA on the other hand is more comprehensive and tends to treat the EU as one economic entity (as it should) which eliminates the need for side deals.

CETA also seems to have an upper hand in terms of reducing barriers for agricultural goods, normally an issue of great contention between trade partners. In fact, World Trade Organization trade talks between member countries have been constantly failing in large part due to failure to arrive at a compromise on agricultural goods. CETA is set to have most agricultural goods trade freely between the EU and Canada within seven years. NAFTA was not as successful on this count since the tripartite side deals concerned sensitive agricultural goods.

An interesting aspect of CETA is the rules of origins that favour the use of foreign components. Rules of origins are used to determine the country of origin of the traded goods. If a good is deemed to be produced outside the FTA, then tariffs may be levied. Without getting into the nuts and bolts of rules of origin, suffice it to say that CETA would allow auto components that only have 45% Canadian content to count as a good produced in Canada. In contrast, NAFTA required a domestic content of 62.5% at entry into force. Auto manufacturers would claim that this will erode domestic business and jobs while third-party foreign manufacturers could see this as an indirect way of benefiting from CETA.

One important distinction between NAFTA and CETA is that an FTA between Canada and the US existed before NAFTA. Many observers note that Mexico felt the greatest economic effects from the agreement since Canada and the US had already extensively reduced trade barriers before NAFTA. This is not the case with CETA. Currently, Canada and the European Free Trade Association (Iceland, Liechtenstein, Norway and Switzerland) have an agreement to reduce the tariffs on goods. This represents only a fraction of the EU economically and is much less comprehensive than a FTA. Consequently, there is a chance that the economic effects of CETA will be felt more rapidly and be more important than with NAFTA.

Another important difference is the economic climate of Canada. When NAFTA came into force, Canada's manufacturing industry was much more powerful. Today, the manufacturing sector is sluggish due to a Canadian dollar hovering at parity with the American dollar and NAFTA having lifted the protectionist shield of uncompetitive manufacturers. Also, Canada's resource-based economy is stronger now than 20 years ago. As a result, there is fear that Canada will be exporting natural resources to the EU and in return, high-value finished goods will be imported, which critics of CETA warn could lead to a growing trade deficit.

Trade in Services

This area of CETA is much less ambitious. Compared to NAFTA, there are nos surprise here with the standard Most Favored Nation provisions and specific exclusions.

Labour Mobility

While CETA boasts a framework that streamlines regulations to allow mobility of profession(al?)s between member countries, this is merely a voluntary endeavor left at the discretion of the respective governing bodies. It is unclear how this initiative will boost mutual recognition of qualifications. NAFTA was slow on this issue, but as of 2008, the three countries had agreed on the core competences of 64 professions in order to issue NAFTA visas that allow workers to work temporarily in a member country for up to three years. There has already been some initiatives between Canada and the EU prior to CETA with respect to lawyers and architects.

Trade in Investments

Of interest here is a commitment in CETA to provide a dispute resolution mechanism that is transparent and in which interested third-parties can take part. This diverges greatly from NAFTA chapter 20, which provides for a closed dispute settlement mechanism for foreign investors.

Intellectual Property Protection

NAFTA based its IP regime on the then TRIPS negotiations. Canada nevertheless has continued to be viewed as weak in terms of IP protection. CETA contains nothing ground breaking regarding Copyrights and Trademarks. However, there is a commitment to allow pharmaceutical companies to restore up to two years of patent protections that was lost by regulatory processes and also allow innovative pharmaceuticals (as opposed to generic) to have a right of appeal for decisions made under the Patented Medicines Regulations, a right that was only available to generic pharmaceutical companies.

This change is welcomed and had been long awaited by pharmaceutical companies.

The final text of the agreement is set to be agreed upon in 2015. There will be a ratification and implementation phase afterwards. Therefore, it may be some time before the agreement comes into force. Compared to the NAFTA experience, the economic effects of CETA on Canada should be expected to be greater since most of the trade integration had been accomplished between US and Canada prior to the tripartite agreement. One finding from the NAFTA experience that was negative for Mexico was that the benefits did not help narrow the gap between the rich and the poor. For CETA, it will be important to enforce complementary policies on poverty reduction in the hopes that any gains from trade will be equitably distributed, especially given that the EU is composed of 28 member states that vary greatly in terms of economic development.

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*B.C.L. / LL.B. - MBA 2013*

**JOEL KWAN**

# L' OMC

Je me souviens bien que c'est lors de mon premier cours en relations internationales économiques que j'ai décidé de poursuivre des études en droit et en commerce. J'avais étudié l'Organisation mondiale du commerce (OMC) et son mécanisme de résolution des différends et cela avait allumé une étincelle. Naïf et optimiste, je croyais qu'une fois que mon ambitieux plan d'études de 10 ans serait terminé, l'OMC serait devenu la référence en matière de droit du commerce international.

En réalité, l'OMC a vécu une décennie de léthargie tout au long de mes études universitaires. Entre 2003 et 2013, le cycle de négociation de Doha, qui avait comme but de poursuivre le projet de commerce mondial libre tout en favorisant l'équité pour les pays en développement, a subi un blocage important. Pendant ce temps, les pays membres se sont tournés vers des ententes bilatérales et multilatérales au profit des ententes de l'OMC englobant tous les pays membres.

Mais un nouveau souffle est venu pousser dans les voiles de l'OMC. Le 7 décembre 2013, les pays membres de l'OMC ont conclu le cycle de négociation Doha, soit 12 années après le début des pourparlers. Un des principaux enjeux qui empêchait le cycle Doha d'avancer était celui des produits agricoles. D'un côté, les pays membres en développement avec une économie dépendante de l'agriculture exigeaient certaines concessions pour continuer à protéger leurs industries. D'autre part, les pays développés hésitaient à abaisser le niveau de subventions de leurs producteurs agricoles, un sujet hautement politique. Finalement, les parties se sont entendues sur la continuation temporaire des concessions pour les pays en développement.

L'entente prévoit aussi la « facilitation commerciale » (ma traduction en attendant la version française officielle de l'OMC) ce qui simplifierait les procédures de dédouanage avec l'objectif de réduire les coûts associés à l'importation et à l'exportation.

Cette entente annonce aussi un retour bien attendu vers le commerce international qui avait ralenti d'une façon marquante depuis la crise financière de 2008. Il est plus logique de convenir des règles internationales sur l'échange entre pays pour deux raisons principales. Premièrement, les ententes entre les pays membres de l'OMC sont plus bénéfiques économiquement que les ententes bilatérales et multilatérales. Les ententes ad-hoc sont intrinsèquement exclusives en discriminant les tiers qui ne font pas partie de l'entente alors que les négociations de l'OMC engagent tous les membres. La discrimination en matière d'échange commercial va à l'encontre même des principes fondateurs de l'OMC. Deuxièmement, l'accroissement des ententes ad-hoc crée l'effet « spaghetti »; un cauchemar logistique avec des règles tantôt redondantes et tantôt en conflit. Avec toutes ces ententes çà et là, il est plus difficile de voir clair et de maximiser les gains de l'échange commercial.

La fin du cycle de négociation Doha apportera une certaine crédibilité qui arrive bien à point pour une institution mondiale qui semblait perdre l'effervescence de ses débuts depuis 1995.

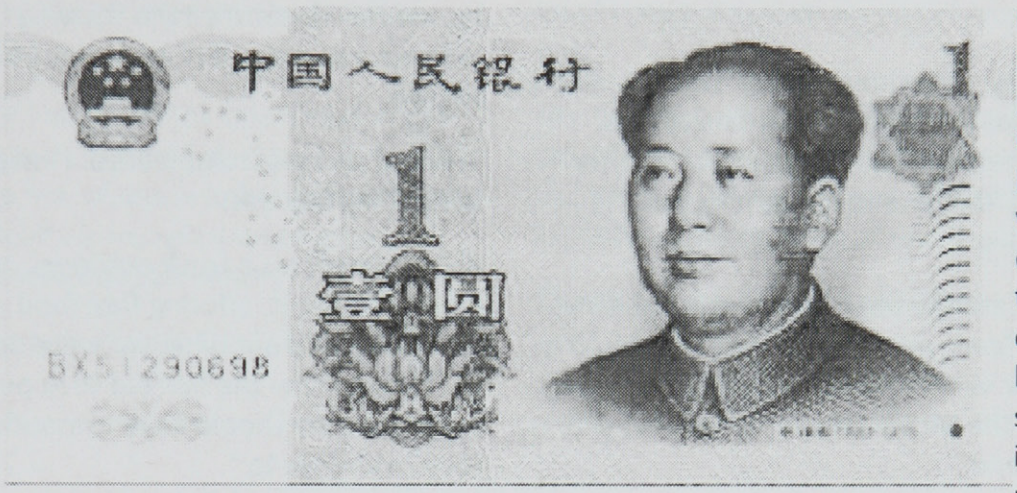
Il reste encore beaucoup de travail à faire pour que l'OMC devienne la sommité en matière d'échange commercial international, mais pour l'instant mon côté optimiste et naïf est satisfait.

B.C.L. / LL.B. - MBA 2013

JOEL KWAN

# VERS UN NOUVEAU SYSTÈME MONÉTAIRE MONDIAL

À l'occasion de l'ouverture de la succursale montréalaise de la Banque de la Chine, M. Guillaume Liu, Vice-Directeur – Préparation de la succursale de Montréal, a livré une allocution sur l'internationalisation du Yuan, la devise chinoise. Selon M. Liu, le gouvernement chinois a comme objectif de voir la monnaie chinoise devenir la devise officielle d'échange pour le commerce international d'ici 2018.




Pour apprécier la teneur de cet ambitieux projet, il est nécessaire de remonter à l'après-guerre, lorsque les pays victorieux étaient en pourparlers à la conférence Bretton-Woods pour développer un nouveau système monétaire. La priorité était de bâtir un système fiable et stable. Au terme des négociations, c'est le dollar américain qui fut adopté comme devise officielle. L'entente entre les pays alliés prévoyait un taux de change rattaché au dollar américain qui était échangeable à un taux nominal de 0,35$ par once d'or.

Conséquemment, les États-Unis s'engageaient à échanger les dollars américains pour de l'or. Initialement, le système fut un succès: rapidement, le dollar américain est devenu un standard international en matière de commerce. Stratégiquement, ce système s'avéra un avantage important pour les États-Unis. Puisque le commerce dépendait en grande partie du le dollar américain, il était moins risqué, moins dispendieux et plus commode d'utiliser cette devise pour effectuer des transactions. Cela a permis à la FED (la Réserve fédérale américaine) d'imprimer une quantité importante de dollars sans souci de créer de l'inflation. De plus, le statut de facto des États-Unis comme banquier du monde a donné au pays un poids politique important.

Au début des années 70, les États-Unis ne peuvent plus soutenir le système financier sans menacer l'économie domestique. Les marchés perdent confiance en la devise américaine et tous veulent l'échanger pour de l'or. Pour éviter que le système ne s'écroule, le président Nixon laisse finalement le dollar américain fluctuer librement sans être rattaché à la valeur de l'or. La manœuvre de Nixon permit de sauver le système monétaire mondial, mais non sans conséquences négatives à l'interne. Suite à la crise financière de 2008, un nouveau choc du système monétaire devient une possibilité réelle. Le dollar américain n'est plus aussi attrayant: dévaluation du dollar américain, économie interne faible et léthargie à la Maison Blanche sont de piètres conditions pour soutenir une devise internationale.

La Chine, en tentant de se positionner comme banquier mondial à ce moment-là, joue bien ses cartes. Cependant, le gouvernement chinois est beaucoup moins confortable avec la prise de risques et élabore un stratagème complexe pour développer un nouveau système. Trois types de devises chinoises sont maintenant disponibles, mais encore contrôlées de près par le Politburo: une devise strictement pour l'économie interne de la Chine, une qui peut être échangée contre le dollar Hong Kong à l'intérieur du territoire Hong Kongais et une troisième devise, virtuelle, utilisée pour estimer la valeur future de la devise échangeable à Hong Kong. Une politique centrale de ce système est l'appréciation du Yuan pour le rendre plus attrayant sur les marchés internationaux. Éventuellement, l'objectif est de permettre au Yuan d'être échangé à l' international et de le rattacher à la valeur de l'or.

Suite à la présentation fort éducative de M. Liu, quelques questions me sont restées à l'esprit. Premièrement, sans connaître tous les détails, il semble que ce système soit un retour au système Bretton-Woods. Suivant l'expérience américaine, il sera intéressant de voir si la Chine adoptera des contrôles pour éviter un choc tel qui celui de 1971.

Deuxièmement, si le gouvernement chinois désire l'appréciation du Yuan pour le rendre plus attrayant, il sera nécessaire de maintenir l'équilibre entre l'économie internationale et l'économie interne, car l'appréciation du dollar risque de relentir les exportations. Cependant, la Chine serait possiblement en transition vers une économie moins dépendante sur l'exportation, ce qui pallierait l'objectif d'un Yuan croissant.

Troisièmement, contrairement à la situation de l'après-guerre, la Chine développe ce système unilatéralement, sans consultation avec les autres grandes forces économiques du monde. Cela pourrait rendre l'objectif d'un Yuan international plus difficile à atteindre. Dans tous les cas, plusieurs s'entendent sur le fait qu'il est temps de repenser le système monétaire mondial. Cela serait un devoir pour nos représentants de se pencher sur cet enjeu déterminant pour des années à venir.

Law III

# BOB LOBLAW'S LAW BLOG

## THE END OF THE INNOCENCE

DEREK ZEISMAN

My good friend and mentor, Dr. Bob Loblaw (QC, BYOB) would like to take this occasion to welcome you all back after what we hope was a delightful holiday break.

For those of you who have had difficulty in exiting holiday mode, the recent spell of ungodly cold weather has hopefully served as a reality check of sorts. Classes are back in full swing, so we must make the best of things.

Luckily, we all have our Faculty coffeehouses to provide us with a well-deserved distraction from our onerous responsibilities. These are carefree affairs, where we can let down our hair (or lack thereof), and kick back with some drinks among good friends and (semi-) good music.

The sponsored coffeehouses are the best. Free beer, free wine, and free food all combine to leave everyone feeling very good indeed, other than perhaps our venerable LSA executive members, who are empowered (as per the McGill Charter of Values) with cleaning up the mess at the end.

But lately, I have noticed that things have not been quite so jovial and carefree as they used to be, in the wonderful world of the weekly coffeehouse.

Dr. Loblaw noticed the same thing when he accompanied me to a recent sponsored coffeehouse. He found the non-student admission fee – two Taser jabs from security goons, plus HST – to be rather steep indeed.

After that minor incident (Dr. Loblaw is recovering nicely in hospital, merci beaucoup), I found myself asking, "Hmmm.... Has something changed around here? What could it possibly be?"

At that instant, the truth struck me like a frozen carbolic smokeball. Our culture has changed here in the Law Faculty. To quote George Bush Sr., we are a less "kinder, gentler" people than we once were. Ours is now a meaner, more suspicious world.

How could such a cultural sea change have occurred? And then it struck me: The food truck.

Yes, the LSA's food truck. The end of the innocence. Our very own 9/11. And we never even saw it coming.

Many of you will recall the infamous LSA food truck, which appeared on the driveway outside the Faculty back in the warm, sunny, carefree days of September. Of course, it wasn't actually an "LSA" food truck – it was sponsored by one of the big law firms, which shall remain nameless for fear that a certain executive member who will remain nameless, but who we shall vaguely refer to as "Matthew Q," would choke on his own indignation were we to reference it here.

Anyway, the food was pretty standard September luncheon fare – hamburgers, fries, drinks – the usual. But it all must have been delicious, for the lineup stretched all the way to Concordia or thereabouts.

In the wake of that event, rumours ran rampant that the food truck had been infiltrated by the closest thing we have to terrorists here in the Faculty: SNAILs. Yes, non-law students. Oh, the humanity! Think of all the starving lawyers-in-waiting who went without a hamburger! A poutine! Even a lousy Coke, for the love of God.

The LSA was most displeased. I imagine the conversation went something like this:

A: "So we set up a truck outdoors, on a beautiful day, where everyone can see it, offering free food and drinks, and somehow the SNAILs figured out what we were up to!"
B: "I know. How the hell did they pull it off?"
A: "Maybe we should have camouflaged it with something they're allergic to."
B: "Like textbooks? Or student loan repayment letters?"
A: "Hey, good idea. We'll do that next year. But for now, we'd better place all our events under heavy security, to keep those awful SNAILs from getting anywhere near our free stuff again."
B: "Definitely. I'll order a heavy weapons catalogue ASAP. Those SNAILs are NOT entitled to our entitlements!"

And it's been all downhill from there. Now, our coffeehouses are in full NSA – oops, LSA – lockdown mode, as our Executive members do their best to protect us from the McGill Axis of Evil (aka "every other faculty").

Thus, we are now blessed with scowl-faced security guards at our entrances, locked doors that shall not be entered under any circumstances, and demands for student cards, even from law students who have been around here so long they remember back when Old Chancellor Day Hall was still known as New Chancellor Day Hall.

The LSA was also strategic enough to bunch all three of last term's sponsored coffeehouses together, right at the end of the term:

A: "Hey, if we glob all the free coffeehouses together, maybe the SNAILs will be less likely to find out about them."
B: "Great idea. And let's put them all in November. That way, the SNAILs will be too busy trying to catch up on the course work they've been avoiding all term to bother showing up."
A: Huzzah!

According to Dr. Loblaw's mathematical calculations, at the rate things are escalating, by the time March rolls around, anyone who tries to enter the Atrium during a coffeehouse will first be

subjected to a full body-cavity search. Putting up your loved ones as collateral will remain optional – at least until next fall, when the idea will be carefully re-examined by the LSA.

To be fair, last fall's food truck fiasco was reportedly not an isolated incident. We are told that many SNAILs have grown fond of infiltrating our coffeehouses, particularly the sponsored affairs with free goodies galore. A fellow student recently estimated that as many as one-quarter of the attendees at past coffeehouses were non-law students.

To be serious for a moment (if I may), I think this is kind of sad. Not that the SNAILs are fond of mooching (aren't we all?), but that we law students know so few of one another that complete strangers would have no difficulty in mingling amongst us, without being called on their unwelcome presence.

In a perfect world, it would be nice if we in the Faculty could take some time to get to know one another just a little better. Not only students in our own year, but those in others as well – particularly the first and second years who may not instantly register on our visual radar.

If that were to occur, maybe – just maybe – there would be less of a need to use heavy-handed security measures to keep out unwelcome visitors. The honour system would prevail, and it would work, because we would know who's who – and who is not.

Oh, freedom. You are a glorious but oh-so-frail commodity. One stealth attack on one food truck occurs, and before we know it, the grounds of liberty have shifted beneath our unsuspecting feet, like so much constitutional quicksand.

The end of the innocence, indeed.

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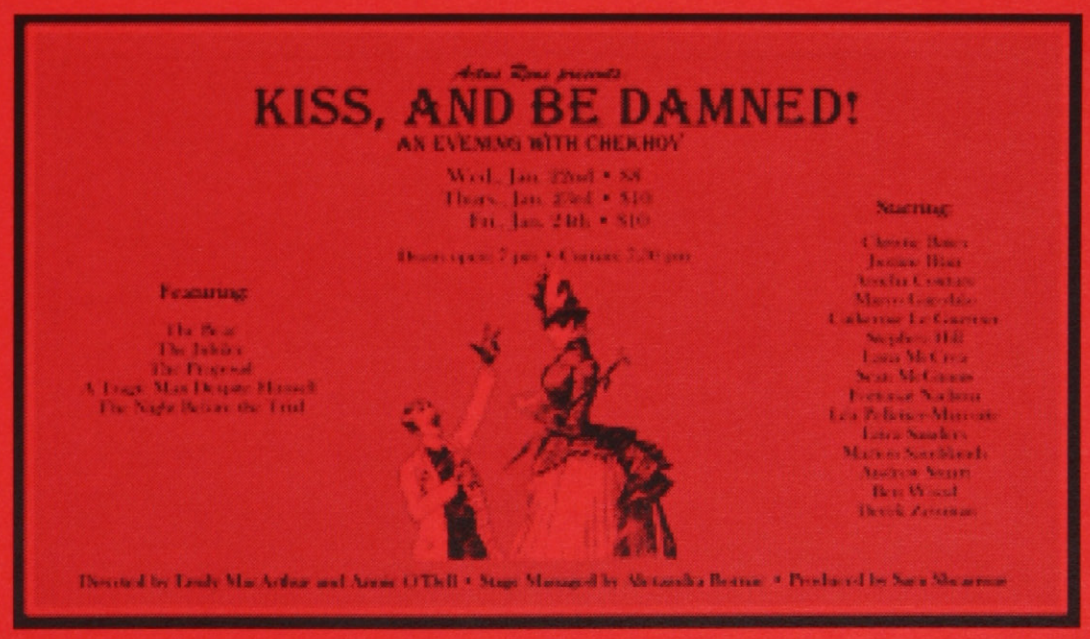
*Law III*


# ACTUS REUS PRESENTS !

Actus Reus presents Kiss, and Be Damned!: An Evening with Chekhov. Come and support McGill's very own law students performing Chekhov's uproarious one-act comedies: The Bear, The Jubilee, The Proposal, A Tragic Man Despite Himself, and The Night Before the Trial!

The plays run Wednesday, Jan. 22, Thursday, Jan. 23, and Friday, Jan. 24 at 7:30 pm. Tickets are $8 on Wednesday, $10 on Thursday, and $10 on Friday. Tickets can be purchased from Actus Reus members or at the door.

Directed by Emily MacArthur and Annie O'Dell, stage managed by Alexandra Bornac, and produced by Sara Shearmur.



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